

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

- - -

UNITED STATES OF AMERICA,	.	Case No. 1:09-cr-030-1
	.	
Plaintiff,	.	
	.	<b>Change of Plea</b>
- v -	.	
	.	Monday, May 11, 2009
CHRISTOPHER FREEMAN,	.	3:23 PM
	.	
Defendant.	.	Cincinnati, Ohio
. . . . .	.	

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE MICHAEL R. BARRETT

For the Plaintiff:	TIMOTHY D. OAKLEY, ESQ. Assistant U.S. Attorney United States Attorney's Office 221 East Fourth Street, Suite 400 Cincinnati, Ohio 45202
For the Defendant:	RICHARD W. SMITH-MONAHAN, ESQ. Federal Public Defender's Office Chiquita Center 250 East Fifth Street, Suite 350 Cincinnati, Ohio 45202
Also present:	Mr. & Mrs. Thomas P. Freeman Laura S. Jensen, Probation Officer John Scott, ATF
Courtroom Deputy:	Barbara A. Crum
Court Reporter:	Luke T. Lavin, RDR, CRR 838 Potter Stewart U.S. Courthouse 100 East Fifth Street Cincinnati, Ohio 45202

P R O C E E D I N G S

(In open court at 3:23 PM.)

COURTROOM DEPUTY: Please be seated.

THE COURT: Hi, guys. How you doing?

MR. SMITH-MONAHAN: Hi, Judge.

THE COURT: You'll have to give me a second. Barb is getting my materials.

All right. Do counsel want to enter their appearances for the record, please.

MR. OAKLEY: Good afternoon, Your Honor. Tim Oakley for the United States.

MR. SMITH-MONAHAN: Richard Smith-Monahan on behalf of the defendant Christopher Freeman.

THE COURT: You're Mr. Freeman; correct?

THE DEFENDANT: Yes, sir.

THE COURT: Okay. It's my understanding that the parties are prepared to proceed under Count 1 of the Indictment; is that correct?

MR. OAKLEY: That's correct, Your Honor.

MR. SMITH-MONAHAN: Yes, Your Honor.

THE COURT: All right. Richard, your client had previously entered on his behalf a not guilty plea. Would you like to make a motion with regards to the previously entered plea?

MR. SMITH-MONAHAN: Yes, Your Honor. We'd move to

1 withdraw Mr. Freeman's previously entered plea of not guilty to  
2 Count 1 of the Indictment and to change that to a plea of  
3 guilty.

4 THE COURT: Mr. Freeman, when you were initially  
5 charged in this case, did you receive a copy of the Indictment,  
6 the piece of paper --

7 THE DEFENDANT: Yes, sir.

8 THE COURT: -- that said what the crime was? And did  
9 you discuss that with your attorney?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Did you discuss what the maximum possible  
12 penalties were under the Indictment?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And did you discuss the charges with him?

15 THE DEFENDANT: Yeah.

16 THE COURT: And did he tell you what kind of evidence  
17 the government had against you to prove their case?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: So did you guys talk about any possible  
20 defenses you may have, did you talk about the facts the  
21 government have, and as a result of all of that discussion, is  
22 it your intention to enter a plea today?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All right. Do you wish to withdraw your  
25 plea of not guilty and enter a plea of guilty to Count 1 of the

1 Indictment?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: All right. The Court is going to allow  
4 you to withdraw your not guilty plea, and I'll ask you, how do  
5 you plead to Count 1 of the Indictment, guilty or not guilty?

6 THE DEFENDANT: Guilty.

7 THE COURT: All right. Before I accept the plea,  
8 though, I have to ask you a number of questions to make sure  
9 that what you're doing here today is done with your complete  
10 knowledge and understanding of all the facts and circumstances.  
11 Okay?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. In order to do that, I'm going  
14 to have you sworn in, and I'm going to tell you, once you're  
15 sworn in, if you say something to me that's wrong, you could be  
16 charged with a misstatement of fact, and if you were to tell me  
17 something that was an out-and-out lie, you could be charged  
18 with perjury. So are you okay with that, telling the truth?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Okay.

21 Barb, do you want to swear Mr. Freeman in.

22 COURTROOM DEPUTY: Sir, could you raise your right  
23 hand.

24 (Christopher W. Freeman was duly sworn by the courtroom  
25 deputy.)

1 THE COURT: Chris, do you have a middle name?

2 THE DEFENDANT: Wayne.

3 THE COURT: Wayne. So that's your full name:

4 Christopher Wayne Freeman?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And can you read and write?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: How old are you now?

9 THE DEFENDANT: 21.

10 THE COURT: How far did you go in school?

11 THE DEFENDANT: To tenth grade.

12 THE COURT: Where did go to school?

13 THE DEFENDANT: Felicity-Franklin High School.

14 THE COURT: And where is that?

15 THE DEFENDANT: Felicity.

16 THE COURT: And that's?

17 THE DEFENDANT: Clermont County.

18 THE COURT: Clermont County, okay.

19 THE DEFENDANT: Yeah.

20 THE COURT: Have you ever been treated for any kind of  
21 substance abuse?

22 THE DEFENDANT: No.

23 THE COURT: How about any type of mental illness?

24 THE DEFENDANT: No, sir.

25 THE COURT: Have you taken any kind of medications,

1 drugs, alcohol, anything at all in your system that would  
2 affect the way you would understand -- in the last 24 hours  
3 that would affect the way you would understand the proceedings  
4 today --

5 THE DEFENDANT: No, sir.

6 THE COURT: -- my questions and your answers?

7 THE DEFENDANT: No, sir.

8 THE COURT: Richard, do you have any doubt as to your  
9 client's competency at this time?

10 MR. SMITH-MONAHAN: I do not, Your Honor. I would  
11 comment he has had a significant drug problem, but he's been  
12 incarcerated since the initial appearance and has dried out  
13 from that. But at this point I believe him to be fully  
14 competent.

15 THE COURT: Okay.

16 Chris, I'd asked you if you understood the charge of Count  
17 1. I just want to go over that for you. Count 1 of the  
18 Indictment is receiving stolen firearms. It's a violation of  
19 United States Code, 18 U.S.C. 922(j) and 18 U.S.C. 924(a)(2)  
20 and 2, and it covers a potential penalty of up to ten years in  
21 prison. Do you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: A possible fine of up to a quarter million  
24 dollars: \$250,000. Do you understand that?

25 THE DEFENDANT: Yes, sir.

1           THE COURT: And if there's a term of imprisonment,  
2 there will be a term of supervised release which follows that,  
3 and that could be up to three years. Do you understand that?

4           THE DEFENDANT: Yes, sir.

5           THE COURT: And in any criminal case for any count of  
6 an indictment for which there is a guilty finding or a plea of  
7 guilty, there's a \$100 special assessment. Do you understand  
8 that?

9           THE DEFENDANT: Yes, sir.

10          THE COURT: Now, I just told you what the penalties  
11 were in this case, and had you gone to trial and been convicted  
12 of Count 1, you'd be looking at the same maximum possible  
13 penalty. So you're basically in the same boat as if you'd been  
14 convicted by a jury. Okay?

15          THE DEFENDANT: Yes, sir.

16          THE COURT: All right. Because this is a felony,  
17 there are certain civil rights that you're going to lose.  
18 You'll never be permitted to own or possess a firearm or  
19 dangerous ordnance. Do you understand that?

20          THE DEFENDANT: Yes, sir.

21          THE COURT: There may be some period of time in which  
22 you will not be able to vote. Okay?

23          THE DEFENDANT: Okay.

24          THE COURT: And you may also be barred from holding  
25 some types of public employment or public office as a result of

1 this conviction. All right?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Okay. Do you believe that you and Richard  
4 have had full conversations about all the facts and  
5 circumstances surrounding this case?

6 THE DEFENDANT: Yes, we have.

7 THE COURT: And are you satisfied with his advice and  
8 representation at this point?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Okay. I had mentioned before about  
11 supervised release, and what that is, is if there's a term of  
12 incarceration that results from this offense, supervised  
13 release is a period of time after the incarceration -- they  
14 used to call it parole in the old days, but now it's called  
15 supervised release -- and it's for a period of time, and I'll  
16 decide what that period of time is at the time of sentencing.  
17 But if there's a violation of the terms and conditions of  
18 supervised release, you could be sentenced for the remainder of  
19 the term or you could be sentenced for the entire term.

20 So, for example, if I put you on three years of supervised  
21 release, let's say you're doing fine for two years and you  
22 catch some paper, if it's something serious, you know, I can do  
23 a couple things. I can do nothing, but if it's serious I can  
24 say, okay, you've got to go serve a year. If it's serious  
25 enough, I could say you've got to do a full three years.



1 Are you okay with that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Okay. Let's talk a little bit about the  
4 Sentencing Guidelines. The Sentencing Reform Act of 1984  
5 established guidelines that judges like me were required to  
6 follow at that time. It basically had to do with what the  
7 Sentencing Guidelines said. And based upon a recent Supreme  
8 Court decision, we don't have to follow the Guidelines, but we  
9 do have to consider them when arriving at a proper sentence.

10 So the Court will consider the Guidelines that are put in  
11 the presentence investigation but will also consider other  
12 relevant factors. And I'm limited by a standard of  
13 reasonableness and also by the maximum term of imprisonment  
14 provided by the code by this offense of conviction. Okay?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right. I could do something that's  
17 more severe or less severe than what the Guidelines indicate  
18 should be done. Are you okay with that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: All right. You're not going to be able to  
21 really have an idea of what kind of sentence you would have  
22 until the completion of the presentence investigation. What  
23 will happen is, after we're finished here today, a presentence  
24 investigation officer will interview you and put together the  
25 facts of this case, and they'll talk with Mr. Oakley and talk

1 with Richard about the situation, and only after that is  
2 completed will something get to me. But before it gets to me,  
3 they'll send a draft copy to both Richard and to Mr. Oakley,  
4 and they'll discuss any objections they have with the officer  
5 and they'll try to resolve them. If they can't, then they'll  
6 file formal written objections, and either at or before the  
7 time of sentencing we'll either have a hearing or we'll discuss  
8 those in open court and make rulings on the objections. Okay?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Okay. Sometimes the lawyers agree on  
11 sentences; sometimes they don't. Sometimes they agree on facts  
12 that went into the presentence investigation; sometimes they  
13 don't. But whatever they do is not binding on me. I can look  
14 at the whole report; I can look at all the facts and  
15 circumstances. As long as what I do is based upon evidence and  
16 reasonableness, I can do what I want to do. Are you all right  
17 with that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Okay. Tim, is there a waiver of appellate  
20 rights in this case?

21 MR. OAKLEY: Yes, sir, there is. It's paragraph 10.

22 THE COURT: Thank you. Can you handle that for us?

23 MR. OAKLEY: Yes, Your Honor.

24 Paragraph 10 states that "The defendant understands that he  
25 has the right to appeal the sentence imposed in this case

1 pursuant to 18 U.S.C. 3742. In exchange for the agreement of  
2 the United States as set forth in paragraphs 1 and 2 above, the  
3 defendant hereby waives all rights to appeal the sentence  
4 imposed, except for the grounds that (a) the sentence includes  
5 a term of custody that exceeds the maximum Guideline  
6 imprisonment range, or (b) the sentence exceeds the statutory  
7 maximum penalty. The defendant further understands that the  
8 United States reserves its rights to appeal the sentence  
9 imposed as set forth in 18 U.S.C. 3742(b). However, if the  
10 United States appeals the defendant's sentence, then the  
11 defendant "is or shall be released from the above waiver of  
12 appellate rights."

13 THE COURT: Richard, is that your understanding of the  
14 waiver of appellate rights in this Plea Agreement?

15 MR. SMITH-MONAHAN: Yes, Your Honor.

16 THE COURT: And, Mr. Freeman, is that also your  
17 understanding?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Okay. The Plea Agreement also provides  
20 for the forfeiture of a number of items that were involved in  
21 this case. And you understand that and you realize you're  
22 going to lose all right, title or interest you may have had in  
23 those items, which are mainly firearms, right?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Okay. Is probation a possibility in this

1 case?

2 MR. SMITH-MONAHAN: It's --

3 MR. OAKLEY: It's a Guideline range, Your Honor.

4 THE COURT: Okay.

5 You are eligible for probation, but understand that doesn't  
6 mean you're going to necessarily get it. I'm going to look at  
7 the things we talked about in the Guidelines and the sentencing  
8 factors and the facts in this case, and then I'll determine  
9 whether or not it's appropriate. Okay?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: All right. I do want to talk a little bit  
12 about the right to a jury, which by proceeding today you're  
13 saying you wish to give up. Obviously, you have Richard here  
14 with you at this time, so you're aware that you have the right  
15 to be represented by counsel at this stage of the proceeding  
16 and at a trial if we were to have one. All right?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And if you wanted to have a trial, you  
19 could stick with your not guilty plea and we'd have a public  
20 and speedy trial in front of a jury of 12 people. Do you  
21 understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Okay. And if there were such a trial,  
24 you'd have the right to assistance of counsel. That means  
25 Richard or another lawyer could make an opening statement for

1 you, could make a closing argument, could cross-examine the  
2 government witnesses, could challenge their documents, and  
3 introduce evidence that they thought was appropriate. Do you  
4 understand that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And if there are witnesses who you thought  
7 were helpful and Richard could get a subpoena served on them,  
8 then we'd compel them to come to court. Okay?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And if there were such a trial, nobody  
11 could make you testify unless you wanted to. In other words,  
12 Mr. Oakley could not call you in his case. The only way you'd  
13 end up on the witness stand would be if you and Richard thought  
14 it was in your best interest to testify.

15 Are you okay with that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: All right. The burden of proof in a  
18 criminal case is beyond a reasonable doubt. What that means  
19 is, you're presumed innocent until Mr. Oakley would introduce  
20 evidence as to each and every element of the offense that would  
21 establish your guilt beyond a reasonable doubt. And I'm sure  
22 you've had discussions with Richard about what that means and  
23 you're familiar with that term, right?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Okay. There's one other right that people

1 charged with crimes have that you have to give up to go forward  
2 in this case, and that is the right not to incriminate  
3 yourself. And the reason for that, Chris, is because I need to  
4 understand what the facts are, and to understand the facts, Mr.  
5 Oakley is either going to read a statement or have an agent  
6 read a statement of facts, and at the end of that I'm going to  
7 ask you if those are correct or incorrect. And if you say  
8 they're correct, that almost certainly is going to mean that  
9 you're admitting to a crime, because I've never seen it happen  
10 where Mr. Oakley doesn't read an offense. Okay?

11 So that means you have to waive up your right to  
12 incriminate yourself and have to admit that you have, in fact,  
13 committed a crime. Are you all right with that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right. Mr. Oakley and Richard, I've  
16 had a quick look at the Plea Agreement in this case, and I  
17 think I've covered paragraph 1. I think I've covered paragraph  
18 3, 5, and I've talked a little bit about 14. Tim, so if you  
19 want to go through that in more detail, you can, but will you  
20 cover whatever you think I've missed.

21 MR. OAKLEY: I will, Your Honor.

22 To summarize the Plea Agreement, the Court has discussed  
23 much of it, but it states, in summary, as paragraph 2 is that  
24 once the plea is accepted and not withdrawn, the United States  
25 will limit the charges against Mr. Freeman in this matter to

1 the one count as set forth.

2 The Court discussed 3.

3 Paragraph 4 is the acceptance of responsibility reduction.  
4 The United States recommends that he receive a reduction of two  
5 levels for acceptance of responsibility. Should he continue to  
6 do so through the time of his sentencing, the United States  
7 will notify the Court of his timely notification of the  
8 authorities of his intention to plead guilty.

9 The Court's discussed 5 and, I believe, 6. And 7, which is  
10 7 notifies him of the Court's intention to question him and the  
11 potential of prosecution.

12 8 is by signing the document, Mr. Freeman acknowledges the  
13 truth of the attached statement of facts.

14 9. In the event that Mr. Freeman does not plead guilty, he  
15 understands and agrees that by the filing of the Plea Agreement  
16 he hereby waives any protection afforded by Section 1B1.8(a) of  
17 the Guidelines, Rule 410 of the Rules of Evidence, and Rule  
18 11(f) of the Federal Rules of Criminal Procedure, and that any  
19 statement made by him as part of the plea discussions or as  
20 part of his cooperation with the government will be admissible  
21 against him, including but not limited to, the government's  
22 case-in-chief, as a joint exhibit without any limitation in any  
23 civil or criminal proceeding.

24 We have discussed paragraph 10.

25 Paragraph 11 is that no promises have been made to Mr.

1 Freeman that he will receive probation or a lighter sentence on  
2 account of his plea of guilty. He understands that the  
3 sentencing guideline recommendations and stipulations that are  
4 set forth in the agreement do not bind the Court. Should the  
5 Court not follow those recommendations, he does not have the  
6 right to withdraw the guilty plea. He will be assessed a  
7 special assessment of \$100. He will agree to forfeit any right  
8 to the weapons as named in paragraph 14.

9 And those weapons were stolen, Your Honor, so I don't  
10 believe he had any real title to those anyway.

11 THE COURT: Okay.

12 MR. OAKLEY: Finally, Your Honor, paragraph 15 is that  
13 the written Plea Agreement embodies all of the agreements and  
14 understandings between the United States Attorney for the  
15 Southern District of Ohio and the defendant Christopher  
16 Freeman. No conversation, discussion or understanding, or any  
17 other documents extraneous to the Plea Agreement, shall be  
18 considered to be part of the Plea Agreement.

19 THE COURT: Chris, will you look on page 6 of that  
20 document. Do you have that in front of you?

21 THE DEFENDANT: Yeah.

22 THE COURT: There's a signature line for your name.  
23 And is that your signature that appears above that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And did you sign that because that is your



1 understanding of the Plea Agreement as contained in the  
2 document and as summarized by myself and Mr. Oakley?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And, Richard, do you agree with that?

5 MR. SMITH-MONAHAN: Yes, Your Honor.

6 THE COURT: Okay.

7 Mr. Freeman, other than what's in there -- Mr. Oakley  
8 indicated the government was going to make certain  
9 recommendations not to pursue other offenses and the other  
10 items that they mention there. Other than what's in the Plea  
11 Agreement itself, has anybody promised you anything else about  
12 how you're going to be treated by me or by anybody else in this  
13 proceeding in order to get you to plead guilty today?

14 THE DEFENDANT: No, sir.

15 THE COURT: On the other side of the coin, has anybody  
16 threatened you with anything else in order to get you to plead  
17 guilty here today?

18 THE DEFENDANT: No, sir.

19 THE COURT: Okay. Mr. Oakley, do you have somebody,  
20 or are you going to read the facts?

21 MR. OAKLEY: Agent John Scott from ATF is here.

22 THE COURT: Agent, could you come forward, please.

23 Richard, do you want the agent sworn, or is an unsworn  
24 statement all right with you?

25 MR. SMITH-MONAHAN: We have no objection to it being

1 unsworn, Your Honor.

2 THE COURT: Okay.

3 Agent, could you please state your full name, spell your  
4 last name, and give us your duty assignment, please.

5 AGENT SCOTT: John Scott, S-c-o-t-t, Cincinnati ATF.

6 THE COURT: Thank you.

7 AGENT SCOTT: On or about February 12th, 2009, the  
8 Arcade Antiques Gun Store, a federally firearms licensed  
9 dealership located in Bethel, Ohio, was broken into and  
10 approximately 35 firearms were stolen. The investigation  
11 revealed that defendant Christopher Freeman and William Roehm  
12 were involved in the disposal of the firearms.

13 On February 13th, 2009, Roehm contacted an agent from the  
14 Bureau of ATF. The agent was posing undercover as a buyer for  
15 the stolen firearms. The agent was contacted by Roehm and was  
16 offered a chance to purchase a portion of the weapons for  
17 \$1,200 in U.S. currency. Agents met Roehm at the Red Roof  
18 Motel located at 4035 Mount Carmel-Tobasco Road in Cincinnati,  
19 Ohio, where they purchased eight of the stolen firearms for the  
20 prearranged \$1,200. Roehm told the agents that the weapons  
21 were hot and that he -- Roehm -- had touched a couple of the  
22 firearms and had wiped the prints off the guns.

23 After that purchase, a meeting was arranged with  
24 Christopher Freeman to purchase more of the weapons. Freeman  
25 met another undercover ATF agent at a nearby gas station

1 located at the intersection of State Route 125 and 133. At the  
2 meeting Freeman received cash. Roehm had been paid for the  
3 eight weapons previously purchased by the ATF and went on to  
4 discuss the sale of other firearms. Freeman then sold three  
5 more of the firearms to Special Agent Chard for an additional  
6 370 in U.S. currency.

7 At the time Freeman offered Special Agent Chard and  
8 additional amount of firearms but claimed to have to travel to  
9 another location to have to obtain the weapons. Freeman left  
10 the agent at the point to purportedly retrieve the additional  
11 weapons when contact was lost between Freeman and the agent.

12 The recovered firearms were checked against the stolen  
13 inventory of the Arcade Antique Gun Store and found to be, in  
14 fact, stolen from the store on February 12, 2009. At the time  
15 of the theft and recovery of the firearms, the weapons in  
16 question as previously described in the Indictment and Plea  
17 Agreement had traveled in and affected interstate commerce, and  
18 the defendants Christopher Freeman and William Roehm had  
19 reasonable belief that the firearms were stolen at the time the  
20 two men possessed and disposed of them to the agents.

21 THE COURT: Okay. Chris, could you look at page 8 of  
22 the Plea Agreement, which is the second page of the statement  
23 of facts. And once again, there is a signature line that  
24 purports to have your signature. And is that your signature  
25 above that?

1 THE DEFENDANT: Yes, it is.

2 THE COURT: And did you sign that because the  
3 statement of facts as typed out and as summarized by Agent  
4 Scott are correct?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Were the statements made by him in any way  
7 incorrect?

8 THE DEFENDANT: No, sir.

9 THE COURT: So are you offering to plead guilty here  
10 today because you are, in fact, guilty of the offenses charged  
11 in Count 1 of the Indictment?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Okay. In light of all the conversations  
14 we've had about your rights and the facts in this case, I'll  
15 ask you for the final time, how do you wish to plead to Count 1  
16 of the Indictment, guilty or not guilty?

17 THE DEFENDANT: Guilty.

18 THE COURT: I've had the opportunity to observe your  
19 appearance in court today. I've also observed the  
20 responsiveness that you've had to the questions that I've been  
21 asking, and based upon my observations and the answers you've  
22 been giving me, the Court is satisfied that you're in full  
23 possession of your faculties. You're not now suffering from  
24 any apparent physical or mental illness. You're not now under  
25 the influence of narcotics or alcohol. You do understand the

1 nature of the proceedings in which we're engaged and the  
2 meaning of the charges and the consequences of the plea and of  
3 the Plea Agreement and the negotiations undertaken on your  
4 behalf.

5 Therefore, the Court finds that Christopher Wayne Freeman  
6 is fully competent and capable of entering an informed plea,  
7 and the Court further finds that the plea of guilty is a  
8 knowing and voluntary plea supported by an independent basis in  
9 fact containing each of the essential elements of the offense  
10 charged, all of which occurred in the Southern District of  
11 Ohio. Therefore, the Court will accept the plea and make a  
12 finding of guilty at this time.

13 Christopher, I had mentioned before a little bit about the  
14 presentence investigation. We have a local rule called 102  
15 which governs the conduct of the parties, including you, during  
16 the course of the presentence investigation. The probation  
17 officer will be coming to interview you, and Richard should be  
18 with you when you give that statement to them. Okay?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: I've told you before what happens.  
21 They'll put a rough draft out to the lawyers. They'll discuss  
22 it with the probation officer first, and if there's any  
23 problems, then I'll end up dealing with them either before or  
24 at the time of sentencing. Okay?

25 THE DEFENDANT: Yes, sir.

1           THE COURT: All right.

2           Anything as to the custodial status we need to discuss now,  
3 or not?

4           MR. SMITH-MONAHAN: I would like to have the Court to  
5 review the issue of bond. I don't know if you -- did you  
6 receive the pretrial report in this case?

7           THE COURT: Yeah, I do.

8           Okay.

9           MR. SMITH-MONAHAN: Pretrial recommended him being  
10 released on bond. The magistrate did not agree with that and  
11 held him. But we would like to ask Your Honor to review that  
12 matter.

13          Pretrial, based on his minimal record -- you can see he  
14 only had two prior contacts with the law. He's lived with his  
15 parents for 12 years, according to the pretrial report. I  
16 think some of the concern at the initial was his drug usage.  
17 He has now had a couple of months to dry out at the Butler  
18 County jail. He was coming down off of a heroin problem.

19          So we'd suggest at this point he's a good candidate for  
20 bond given his minimal record, given his acceptance of his  
21 responsibility here. I don't think the Guidelines are going to  
22 call for a tremendously long sentence in this case.

23          His parents are here sitting in the courtroom. You may  
24 even want to speak with his father. He's got a pretty solid  
25 plan on keeping his son out of trouble while this is pending.

1 His parents agreed with pretrial to act as third-party  
2 custodians for him. He could be, I think, on house arrest.

3 You've got a telephone there?

4 MR. THOMAS P. FREEMAN: (Nods head up and down.)

5 MR. SMITH-MONAHAN: He could be on electronic  
6 monitoring with them. If you want to talk to his dad, I can  
7 tell you he's pretty committed to Christopher not getting into  
8 any trouble, any more trouble while this is pending.

9 THE COURT: Let me hear from Mr. Oakley first and then  
10 we'll hear from Mr. Freeman.

11 MR. OAKLEY: Your Honor, we had argued against the  
12 release of Mr. Freeman. At the time he had had no contact with  
13 his father for a couple of weeks. According to the report,  
14 they had been into a fight, and he left. Further, there was a  
15 substantial drug usage.

16 Notably, his drug habit cost between 560 and over a  
17 thousand dollars a week, and that just simply wasn't supported  
18 by any type of occupation. So it's our feeling that he had to  
19 engage in other activities to pay for that habit.

20 Finally, Your Honor, at the time of Mr. Freeman's arrest  
21 he'd been a fugitive for about a week. He knew that the police  
22 were looking for him and we could not locate him. We don't  
23 think that, based on the overall circumstances -- and the Court  
24 agreed -- that he was a candidate for pretrial release.

25 THE COURT: We're dealing with a co-defendant as well,

1 right?

2 COURTROOM DEPUTY: Correct.

3 THE COURT: And is he locked up or --

4 MR. OAKLEY: Yes.

5 THE COURT: He's locked up.

6 MR. SMITH-MONAHAN: I don't know his record, but I  
7 think the co-defendant has some criminal record, though.

8 MR. OAKLEY: In fairness, Your Honor, Mr. Roehm, the  
9 co-defendant, does have a substantial record.

10 THE COURT: Okay. Can I hear from Chris' dad, though.

11 MR. SMITH-MONAHAN: Do you want him to come up, Judge?

12 THE COURT: Sure.

13 Sir, if you could just come on up, speak into the  
14 microphone, speak slowly. Just state your full name.

15 MR. THOMAS P. FREEMAN: Thomas P. Freeman.

16 THE COURT: Okay. Mr. Freeman, here's the deal. We  
17 see this all the time: guys that are in situations involving  
18 drugs and they want to get out and they get out and then  
19 something happens between now and the time of sentencing  
20 because they just can't help themselves and they have to, you  
21 know, go find some coke or crack or whatever it is, or  
22 sometimes just, you know, marijuana and alcohol, and they end  
23 up in a worse position than they are right now.

24 From what Richard has said, Chris is not -- you know,  
25 obviously he's been drugfree since he's been in jail, and I



1 just -- I mean, tell me what you plan on doing to make sure  
2 that he doesn't end up in a worse situation. Because right now  
3 he's got a -- and going into the sentencing he'll have a fairly  
4 stable situation. I mean, jail's not the best place in the  
5 world to be, but it is stable. And I just want you to tell me  
6 what you're going to do to make sure that he doesn't screw  
7 himself up between now and then.

8 MR. THOMAS P. FREEMAN: Well, sir, I'm unemployed due  
9 to a back injury.

10 THE COURT: Uh-huh.

11 MR. THOMAS P. FREEMAN: And I do a little bit of side  
12 work on the side, so I'm home pretty much all the time, and I  
13 could give you a hundred percent guarantee that Mr. Chris is  
14 going to be underneath my supervision.

15 THE COURT: Does he listen to you?

16 MR. THOMAS P. FREEMAN: Oh, he's going to listen to  
17 me.

18 THE COURT: Okay.

19 MR. THOMAS P. FREEMAN: Yes.

20 THE COURT: And where do you guys live?

21 MR. THOMAS P. FREEMAN: I live at 197 Felicity Cedron  
22 Road. That's southern Clermont County.

23 THE COURT: Okay. And you've got a landline telephone  
24 and all that?

25 MR. THOMAS P. FREEMAN: Yes, sir.

1           THE COURT: If I let him out, any special  
2 recommendations we'd want? Obviously, we'd want frequent drug  
3 testing, right?

4           MR. SMITH-MONAHAN: Pretrial laid out a pretty  
5 extensive list of recommendations, Your Honor.

6           COURTROOM DEPUTY: Judge, it's on the last page here.

7           THE COURT: Oh, I've got it. Sorry. I was one page  
8 short.

9           (The Court and courtroom deputy confer privately.)

10          THE COURT: Chris, let me ask you this. I know you  
11 want to get out of jail, right?

12          THE DEFENDANT: Yes, sir.

13          THE COURT: Do you really think it's the smartest  
14 thing for you to do now?

15          THE DEFENDANT: Yes, sir.

16          THE COURT: Because I mean, seriously, if you step off  
17 the deep end again and screw up and catch another case, it  
18 changes the whole direction this case is moving in.

19          THE DEFENDANT: Sir, the first week I was in jail I  
20 was -- I didn't -- it was the worst week of my life coming down  
21 off the dope, the drugs. I don't want to go through that  
22 again.

23          So I can pretty much guarantee, if I've got to take a drug  
24 test whenever you recommend, I will. I'll be glad to. But I  
25 can guarantee you I won't make my situation any worse than what

1 it is now.

2 THE COURT: Can you get the job back? Where were you  
3 working, at a gas station for a while?

4 THE DEFENDANT: No, I wasn't. I wasn't working at  
5 all.

6 THE COURT: I thought you worked for Valvoline or  
7 something like that.

8 THE DEFENDANT: Oh, yeah. I did. I worked there for  
9 like six months.

10 THE COURT: Is there any chance you can find a job?

11 THE DEFENDANT: Yes.

12 THE COURT: Because I just don't want you laying  
13 around the house all day.

14 THE DEFENDANT: Yeah. That was my plan if I got out,  
15 was to get a job, to find me a job.

16 THE COURT: I mean, do you have any ideas, or are you  
17 just --

18 THE DEFENDANT: Yeah. Well, I was going to check that  
19 out, the Valvoline, but I think there was a thing like once you  
20 lose that job, you can't reapply for it after so long. I don't  
21 know what that's called.

22 But I was going to go uptown to IGA. It's in Felicity.  
23 It's probably like two miles from my house. And I know the  
24 owner of it. I was going to see if she'd give me a job. I was  
25 just going to hit up the little businesses around me.

1           THE COURT: Okay. All right. I'm going to release  
2 you at this time on bond with the following conditions. You're  
3 to report to pretrial services on a schedule determined by the  
4 supervising officer. You are to have absolutely no alcohol of  
5 any kind, no narcotic substance of any kind, no other  
6 controlled substances.

7           If, in fact, you need to get some kind of medication as a  
8 result of some type of an illness and a doctor indicates that a  
9 prescription is what you need, then you're to talk to the  
10 probation officer before you take any medication. All right?

11           THE DEFENDANT: Yes, sir.

12           THE COURT: You're going to submit to whatever drug  
13 testing and breath testing that they insist, so they can ask  
14 you to do a sample at any time. You're not to engage in  
15 anything that would obstruct the accuracy of that test. If  
16 they want you to have a substance abuse evaluation or  
17 participate in any treatment, you've got to comply with  
18 pretrial services on that.

19           You're to actively seek and try to get employment and  
20 provide verification to pretrial services of one of two things.  
21 Well, actually, of two things. The first one is your efforts  
22 to get a job. All right? Tell them what you're doing. And  
23 then second, if you get a job, you have to tell them where it  
24 is.

25           Absolutely no firearms, dangerous weapons, and no contact

1 with any of the known convicted -- no contact with the other  
2 people involved in this case nor with any known convicted  
3 felons. All right?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: You're to live at 197 Felicity --  
6 Is it Cedron (pronouncing) Road?

7 THE DEFENDANT: Cedron.

8 THE COURT: -- Cedron Road in Georgetown, Ohio, with  
9 your parents. They're agreeing to serve as third-party  
10 custodians. And there's no recommendation here for a monitor,  
11 so I guess we'll just take it the way it is now.

12 MR. SMITH-MONAHAN: Whatever you'd like, Judge. We  
13 can do that whichever way you'd prefer. I didn't realize they  
14 hadn't recommended it, either, until you read them.

15 THE COURT: Yeah.

16 MR. SMITH-MONAHAN: So I don't know where it is in  
17 the -- we don't have anyone from pretrial here.

18 MR. OAKLEY: Yeah. We would ask that, if he's going  
19 to be released, that it ought to be on a monitor.

20 THE COURT: Okay. Probably, to save you from  
21 yourself, it's an appropriate idea. So we'll ask for  
22 electronic monitoring in this situation. And he's not to be  
23 released until those arrangements have been made to get that in  
24 play. Fair enough?

25 MR. SMITH-MONAHAN: Because I imagine the marshals are

1 going to take him back to Butler County today.

2 Is that right?

3 A U.S. DEPUTY MARSHAL: Yeah.

4 MR. SMITH-MONAHAN: So he won't probably be able to  
5 get back down to see pretrial today, but maybe he could have a  
6 day or two to get over there.

7 THE COURT: All right. But I don't want him released  
8 until that's in play. Okay?

9 MR. SMITH-MONAHAN: Okay. I'll go talk to pretrial  
10 right after the hearing.

11 THE COURT: Okay, good. All right.

12 Anything else, Mr. Oakley?

13 MR. OAKLEY: No, sir. Thank you.

14 THE COURT: I'd like to thank the marshals service for  
15 working your schedule around for us today, guys. I realize we  
16 didn't go off at the time we were supposed to. I appreciate  
17 it.

18 All right. Anything else, Richard?

19 MR. SMITH-MONAHAN: No, Your Honor. Thank you.

20 THE DEFENDANT: No, sir.

21 THE COURT: Okay. Thank you.

22 COURTROOM DEPUTY: Court is now adjourned.

23 (Proceedings concluded at 3:52 PM.)

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## C E R T I F I C A T E

I, Luke T. Lavin, RDR, CRR, the undersigned, certify  
that the foregoing is a correct transcript from the record of  
proceedings in the above-entitled matter.

s/Luke T. Lavin  
Luke T. Lavin, RDR, CRR  
Official Court Reporter

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